

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

TZVI WEISS, et al.,

Plaintiffs,

-against-

NATIONAL WESTMINSTER BANK, PLC,

Defendant.

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**-X**

## STIPULATION AND ORDER

Plaintiffs, by and through their counsel, and Defendant, by and through its counsel, hereby stipulate as follows:

WHEREAS, this Court in the above-captioned action ruled in its September 27, 2006 Memorandum Opinion that the first claim for relief, common law aiding and abetting, would be dismissed with leave to re-file;

NOW, THEREFORE, it is hereby stipulated that, for appellate purposes, the issues raised with respect to the first claim for relief, common law aiding and abetting, and ruled upon by the Court herein, shall be preserved for all purposes of appeal in the within action.

The parties further stipulate that the first claim for relief of the Fifth Amended Complaint in the within action is deemed dismissed without prejudice, with leave to re-file the claim consistent with any rulings the Court may enter in this case, or pursuant to any final appellate decision rendered in this case.

Dated: January 24, 2008

By: Joshua D. Glatter / AS  
Gary M. Osen  
Joshua D. Glatter  
Osen & Associate, LLC  
700 Kinderkamack Road  
Oradell, New Jersey 07649  
(201) 265-6400

Counsel for *Weiss* Plaintiffs

By: Lawrence B. Friedman / KEO  
Lawrence B. Friedman  
Cleary Gottlieb Steen & Hamilton LLP  
One Liberty Plaza  
New York, NY 10006  
(212) 225-2000

Counsel for Defendant

SO ORDERED BY THE COURT THIS 31<sup>st</sup> day of Jan, 2008.

s/Hon. Charles P. Sifton  
CHARLES P. SIFTON  
United States District Judge